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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/486,744 | 03/01/2000 | YVES TROUILHET | AD6530 | 9833 |

23906 7590 10/08/2002

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

HON, SOW FUN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1772

DATE MAILED: 10/08/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------|--------------------------------------|--|--|
| Advisory Action | Application No. 09/486,744 | Applicant(s) TROUILHET, YVES | |
| | Examiner Sow-Fun Hon | Art Unit 1772 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 September 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment to advisory action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: Attachment to advisory action.

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Advisory Action

1. The request for reconsideration in Paper # 8 (filed 09/23/02) has been considered and does not place the application into condition for allowance. Applicant's arguments are addressed below.

2. Applicant argues that Applicant's units do conform with ASTM 3985 method defined in the specification. Applicant is respectfully reminded that the units must then be defined by the test method in the claims, along with the year the test method was established.

3. Applicant argues that the laminate of Park does not read on Applicant's claimed invention because Applicant's permeability data was obtained on a 3-layer laminate (paper/Bynel/amorphous polyamide). Applicant claims that Park has a LDPE/paperboard/LDPE/Bynel/amorphous polyamide/Bynel/LDPE laminate instead.

Applicant is respectfully reminded that Applicant does not claim the 3-layer structure in the present claims. Layers "adjacent" to each other do not necessarily contact each other, and the "comprising" language encompasses more than 3 layers.

Applicant is also respectfully reminded that Park does teach a polyolefin/{paperboard/tie layer (Bynel)/amorphous nylon (polyamide)}/tie layer/polyolefin laminate ('767, column 3, lines 15-35, which includes Applicant's described, but not presently claimed 3-layer structure.

4. Applicant argues that the oxygen permeability of an example given of an embodiment of Parks' laminate converts to about 9.3 to about 12.40 in Applicant's units, such that there is very little overlap with Applicant's claimed invention. Applicant is respectfully reminded that the upper end does fall into Applicant's claimed range of oxygen permeability. In addition, Applicant is respectfully apprised that this supports a prima facie case of obviousness whereby

Art Unit: 1772

the measured oxygen permeability of a laminate which comprises the 3 layers claimed by Applicant overlaps Applicant's claimed range.

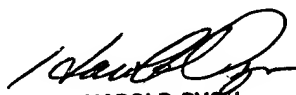
Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

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10/03/02


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

10/4/02